

IC 15-6

ARTICLE 6. DAIRY PRODUCTS

IC 15-6-1

Chapter 1. Milk and Cream Purchases

IC 15-6-1-1

Enforcement

Sec. 1. The creamery license division of Purdue University in cooperation with the creamery examining board shall enforce the provisions of this chapter.

(Formerly: Acts 1955, c.255, s.1.) As amended by P.L.183-1983, SEC.116; P.L.40-1993, SEC.41.

IC 15-6-1-2

Definitions

Sec. 2. As used in this chapter, unless the context otherwise indicates:

(1) "Person" includes an individual, a partnership, a limited liability company, a corporation, and an association.

(2) "Receiving station" means any place other than a dairy processing plant, where milk or cream is received, weighed, sampled, or tested for shipment to any other processing plant.

(3) "Other processing plant" means any place, premises, or establishment where milk or cream is received, processed, or manufactured, and is not specifically identified in this chapter.

(4) "Milk distributor" means any person or person's agent who purchases market milk or market cream from a bargaining agent or another plant for resale.

(5) "Babcock test" means the official Babcock test for milk and for cream.

(Formerly: Acts 1955, c.255, s.2; Acts 1959, c.100, s.1; Acts 1969, c.181, s.1.) As amended by P.L.183-1983, SEC.117; P.L.8-1993, SEC.240; P.L.40-1993, SEC.42; P.L.93-1994, SEC.1.

IC 15-6-1-3

Basis of milk purchases; fresh samples; composite samples

Sec. 3. (a) All milk and cream shall be purchased on the basis of the weight or volume and:

(1) the butterfat content;

(2) the protein content; or

(3) a combination of butterfat and protein content;

as obtained by any test or tests approved by the creamery examining board of Purdue University which may also have been designated official by the Association of Official Analytical Chemists.

(b) All payment for milk must be made either on the basis of a fresh sample taken and tested according to procedures established by the creamery examining board and adopted as rules, or on the basis of a composite test. The composite sample shall cover a period of not more than sixteen (16) days, and in each plant all patrons' composite

samples shall cover the same period of time for each test, and succeeding periods shall be as nearly equal as possible and all such composite samples shall cover the same period. A uniform sample consisting of not less than ten (10) cubic centimeters of milk shall be taken each day, except when milk is frozen or partly churned, from the milk furnished by each patron. An approved preservative shall be added to the sample and each composite sample shall be held in an approved, rubber stoppered, airtight bottle that is plainly labeled to show the name or number of the person whose milk the composite sample represents. The milk to be sampled shall be poured into a weigh tank approved by the creamery license division meeting the standards prescribed in the rules, and be run through a fine-mesh or perforated metal strainer and be homogeneous in richness before any sample is taken. The composite samples shall be kept in a refrigerated cabinet or cooler in or near the receiving room at a temperature not to exceed forty-two degrees Fahrenheit (42° F) away from strong light, and be kept free of mold. The test or tests shall be made within seventy-two (72) hours, Sundays and holidays excepted, after the last sample has been added to the composite sample.

(c) If at the close of any composite period the composite samples are inaccurate as determined by the creamery license division then three (3) daily samples shall be taken within the first five (5) days of the following composite period. The average of the three (3) fresh samples shall determine the basis of payment for the composite period in question.

(d) In each plant where composite samples of milk are taken the owner or manager shall delegate an individual who is responsible for the care, condition, and accuracy of all composite samples.

(e) After the composite samples are emptied the sample bottles shall be thoroughly washed, and all bottles and rubber stoppers shall be sterilized before being used again.

(f) Composite samples may be removed from the plant for testing elsewhere only on written permission from the creamery license division.

(Formerly: Acts 1955, c.255, s.3; Acts 1959, c.100, s.2; Acts 1969, c.181, s.2.) As amended by P.L.40-1993, SEC.43; P.L.93-1994, SEC.2.

IC 15-6-1-4

Unfair samples; fraudulent manipulation of weights or samples; method of weighing and sampling

Sec. 4. (a) It is unlawful for any hauler of milk or cream or other person or dairy processing plant or other milk plant or agent receiving milk or cream by weight or test or by weight and test, to fraudulently manipulate the weights of milk or cream of any patron, to take unfair samples thereof, or to fraudulently manipulate such samples.

(b) When milk is received from farm bulk tanks the hauler shall weigh or measure the milk of each patron accurately and correctly. The hauler shall thoroughly mix the milk of each patron by stirring

until the milk is uniform and homogeneous in richness, before the sample is taken from the milk. When the weighing or sampling of the milk or cream of each patron is done at the dairy processing plant, receiving station, other factory, or other location of a person, the same procedures for buying and paying for milk or cream on the basis of the butterfat and protein apply.

(Formerly: Acts 1955, c.255, s.4.) As amended by P.L.8-1993, SEC.241; P.L.93-1994, SEC.3.

IC 15-6-1-5

Fraudulent manipulation of tests

Sec. 5. It is unlawful for any person acting alone or as the officer, servant, agent, or employee of any person buying and paying for milk or cream on the basis of the total composition of milk, the protein, or fat components of milk to under-read, over-read, or otherwise fraudulently manipulate the test used to determine the total composition of milk or the protein and fat components of milk or pay for milk or cream on any test except the true test of the lot or lots of milk or cream received.

(Formerly: Acts 1955, c.255, s.5; Acts 1969, c.181, s.3.) As amended by P.L.8-1993, SEC.242; P.L.93-1994, SEC.4.

IC 15-6-1-6

Babcock and other test equipment; inspection for accuracy and approval

Sec. 6. (a) Every person or person's agent buying or paying for milk or cream on the basis of the amount of butterfat contained therein as determined by the Babcock test shall use standard Babcock testing glassware and accurate scales.

(b) All standard Babcock testing glassware and weights must be inspected for accuracy by Purdue University and be legibly and indelibly marked by Purdue University with the letters "S.G.P." (Standard Glassware Purdue). A bottle or pipette may not be used for such test unless so examined and marked by Purdue University.

(c) It is unlawful for a person or a person's agent to use any other than standard test bottles and pipettes that have been examined and marked as provided in this section to determine the amount of fat in milk or cream bought or paid for on the butterfat basis.

(d) In running tests other than an approved test for determining the total composition of milk and the protein and fat components of milk, test equipment used which will influence test results must be approved by the creamery license division of Purdue University prior to use in determining producer pay tests.

(Formerly: Acts 1955, c.255, s.6; Acts 1969, c.181, s.4.) As amended by P.L.183-1983, SEC.118; P.L.40-1993, SEC.44; P.L.93-1994, SEC.5.

IC 15-6-1-7

Standard Babcock testing glassware

Sec. 7. As used in section 6 of this chapter, "standard Babcock

testing glassware" means glassware and weights complying with specification for official apparatus for the Babcock method as defined in the latest edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

(Formerly: Acts 1955, c.255, s.7; Acts 1969, c.181, s.5.) As amended by P.L.40-1993, SEC.45; P.L.93-1994, SEC.6.

IC 15-6-1-8

License for milk or cream buyers; fees; revocation

Sec. 8. (a) A dairy processing plant, receiving station, milk shipping station, milk factory, milk distributor, cheese factory, condensery, ice cream factory, other processing plant, person, or person's agent handling, receiving, buying, or paying for milk or cream from producers, bargaining agent, or another plant shall obtain a license from the creamery license division of Purdue University.

(b) The license shall be issued to the dairy, dairy processing plant, receiving station, milk factory, milk distributor, cheese factory, condensery, ice cream factory, other processing plant, person, or person's agent by the creamery license division of Purdue University, upon complying with the provisions of sections 3 through 7 of this chapter and upon payment of a license fee as provided in section 12 of this chapter. This license shall be revoked by Purdue University upon recommendation of the creamery examining board if the licensee fails to comply with the rules under which the license was granted.

(Formerly: Acts 1955, c.255, s.8.) As amended by P.L.183-1983, SEC.119; P.L.40-1993, SEC.46; P.L.93-1994, SEC.7.

IC 15-6-1-9

Tester's license; employment of licensed tester; examination; license fee; revocation

Sec. 9. (a) Every person who does testing in connection with the receiving, buying, or paying for milk or cream on the basis of the total composition or the protein and fat components contained therein, either for the person, or as an officer, a servant, an agent, or an employee of any person shall hold a tester's license.

(b) Every dairy processing plant, receiving station, or other factory, or person, or person's agent, receiving, buying, or paying for milk or cream on the basis of the total composition or the protein and fat components contained therein shall employ a licensed tester who supervises and is responsible for the operation of the testing of milk or cream.

(c) The milk tester's license or cream tester's license shall be issued to a person by the creamery license division of Purdue University who:

- (1) has passed a satisfactory examination as provided for in the rules and has proved by actual demonstration that the person is competent and qualified to test milk or cream; and
- (2) has paid a license fee as provided in section 12 of this chapter.

This license shall be revoked by Purdue University upon recommendation of the creamery examining board if the licensee has failed to comply with the rules under which the license was granted. *(Formerly: Acts 1955, c.255, s.9; Acts 1969, c.181, s.6.) As amended by P.L.183-1983, SEC.120; P.L.40-1993, SEC.47; P.L.93-1994, SEC.8.*

IC 15-6-1-10

Sampler's license; employment of licensed sampler; examination; license fees; revocation

Sec. 10. (a) Every person who does sampling in connection with the receiving, buying, or paying for milk or cream on the basis of the total composition of milk or the protein and fat components contained therein, either for the person or as officer, servant, agent, or employee of any person shall hold a sampler's license.

(b) Every dairy processing plant, receiving station, other factory, person, or person's agent, receiving, buying, or paying for milk or cream on the basis of the amount of butterfat contained therein shall have in its employ a licensed sampler who supervises and is responsible for the sampling and weighing of milk or cream so as to obtain a representative sample and make and record correct weights of the whole amount of milk or cream delivered.

(c) The milk sampler's license or cream sampler's license shall be issued to a person by the creamery license division of Purdue University who:

(1) has passed a satisfactory examination as provided for in the rules and has proved by actual demonstration that the person is competent and qualified to sample milk or cream; and

(2) has paid a license fee as provided in section 12 of this chapter.

The license shall be revoked by Purdue University upon recommendation of the creamery examining board if the licensee fails to comply with the rules under which the license was granted.

(d) A license to test milk or cream shall include the authority to sample and weigh milk or cream.

(Formerly: Acts 1955, c.255, s.9A; Acts 1959, c.100, s.3; Acts 1969, c.181, s.7.) As amended by P.L.183-1983, SEC.121; P.L.40-1993, SEC.48; P.L.93-1994, SEC.9.

IC 15-6-1-11

Temporary permit for samplers and testers

Sec. 11. (a) Any person who desires to test or sample and weigh either milk or cream prior to taking the examination must apply to the creamery license division for a temporary permit.

(b) A temporary permit, when issued, entitles the holder to test or sample and weigh milk or cream until the date specified for taking the examination. A permit holder has the same responsibilities as a licensee in complying with all the provisions of this chapter.

(c) An application for a temporary permit to test shall be accompanied with a fee of thirty dollars (\$30). An application for a

temporary permit to sample or weigh shall be accompanied with a fee of twenty dollars (\$20). The fee shall pay for the first regular tester's or sampler's license issued to the applicant. If the applicant fails the examination or discontinues work before the examination can be given, the applicant forfeits the fee paid for the temporary permit. *(Formerly: Acts 1955, c.255, s.10; Acts 1959, c.100, s.4; Acts 1969, c.181, s.8.) As amended by P.L.183-1983, SEC.122; P.L.93-1994, SEC.10.*

IC 15-6-1-12

License fees

Sec. 12. (a) A plant license shall be issued to every dairy processing plant, receiving station, milk factory, cheese factory, condensery, ice cream factory, or other person by the creamery license division of Purdue University that complies with the provisions under section 8 of this chapter and pays to the creamery license division the sum of seventy-five dollars (\$75) plus a fee of:

(1) twelve dollars (\$12) per million on milk receipts of at least ten million (10,000,000) but not more than fifty million (50,000,000) pounds;

(2) nine dollars (\$9) per million on milk receipts of at least fifty million (50,000,000) but not more than one hundred million (100,000,000) pounds; plus

(3) five dollars (\$5) per million on milk receipts of at least one hundred million (100,000,000) pounds;

during the preceding year ending December 31. The maximum fee may not exceed one thousand dollars (\$1,000) regardless of volume received. All out-of-state milk receipts are exempt from the fees.

(b) A license shall be issued to a receiving station or other milk or cream processing plant upon payment to the creamery license division of Purdue University the sum of twenty-five dollars (\$25).

(c) A milk tester's license or a cream tester's license shall be issued upon compliance with section 9 of this chapter and upon payment by the applicant to the creamery license division the sum of fifteen dollars (\$15).

(d) A sampler's license shall be issued upon compliance with section 10 of this chapter and upon payment by the applicant to the creamery license division the sum of ten dollars (\$10).

(e) The creamery examining board shall establish fees for examining glassware based on the actual cost.

(Formerly: Acts 1955, c.255, s.11; Acts 1959, c.100, s.5; Acts 1969, c.181, s.9.) As amended by Acts 1979, P.L.147, SEC.1; P.L.141-1991, SEC.1; P.L.40-1993, SEC.49; P.L.93-1994, SEC.11.

IC 15-6-1-13

Tax on milk purchases; charge-back to producers

Sec. 13. (a) In order to secure sufficient funds to execute the chapter, and to ensure accuracy to milk and cream producers in the weighing, sampling, and testing of milk and cream, every dairy processing plant, receiving station, milk factory, milk distributor,

cheese factory, condensery, ice cream factory, other processing plant, or person purchasing fluid milk or cream in Indiana, directly from producers or a producers' association or otherwise receiving milk directly from producers, during the month of May of each year shall pay to the treasurer of Purdue University for the fluid milk or cream delivered during the month of May a sum equal in amount to two and one-half cents (\$.025) per one hundred (100) pounds for all fluid milk purchased during that time. For the financing of the producers' share of this program the processor shall charge the two and one-half cents (\$.025) per one hundred (100) pounds back to the producer association or cooperative and for those patrons who do not belong to producer associations or cooperatives, the processor shall make this charge directly to the individual producer. Butterfat purchased by such parties from such producers other than in the form of fluid milk shall be converted for the purpose of the deduction into four percent (4%) milk equivalent. All out-of-state receipts are exempt from these fees.

(b) Such payments shall be made to the treasurer of Purdue University not later than the twentieth day of June of each year. The money received is for the exclusive use of the creamery license division. The money shall be expended for:

- (1) salaries and traveling expenses of inspectors;
- (2) the necessary equipment and supplies for the inspection of all plants and stations;
- (3) the examination of applicants for licenses;
- (4) disseminating information and instruction by means of publication; and
- (5) all other expenses necessary in administering this chapter.

(c) All persons charged with the duty of making such payments shall make reports of all purchases of milk and cream at such times and in such form as required by the creamery license division.

(d) It is unlawful to fail to make the payments required under this section or to fail to make an accurate accounting of the amount of fluid milk and cream purchased.

(Formerly: Acts 1955, c.255, s.12; Acts 1959, c.100, s.6; Acts 1969, c.181, s.10.) As amended by Acts 1978, P.L.2, SEC.1546; Acts 1979, P.L.147, SEC.2; P.L.141-1991, SEC.2; P.L.93-1994, SEC.12.

IC 15-6-1-14

Expiration of licenses; nontransferability

Sec. 14. A license issued under this chapter expires on March 31 following its issue. A license is not transferable.

(Formerly: Acts 1955, c.255, s.13.) As amended by P.L.183-1983, SEC.123; P.L.93-1994, SEC.13.

IC 15-6-1-15

Disposition of license fees

Sec. 15. (a) The money for license fees and for inspection fees as provided for in section 12 of this chapter shall be paid to the treasurer of Purdue University. The board of trustees shall expend

the collected fees, on proper vouchers to be filed with the auditor of state, in meeting all necessary expenses in carrying out the provisions of this chapter, including the employment of inspectors, traveling expenses of inspectors, expenses of issuing publications, and glassware equipment, testing device, and factory inspection as provided for in this chapter.

(b) The treasurer's annual report to the governor must include a classified report showing the total receipts and expenditures of all fees received under the provisions of this chapter.

(Formerly: Acts 1955, c.255, s.14; Acts 1969, c.181, s.11.) As amended by P.L.183-1983, SEC.124; P.L.40-1993, SEC.50; P.L.93-1994, SEC.14.

IC 15-6-1-16

Annual report; statistics; records

Sec. 16. All plants and stations covered by this chapter as listed in section 8 of this chapter (dairy processing plant and receiving station licenses) shall report annually, on or before March 31, the amount of milk or cream, or both, purchased during the last calendar year with the amount of butterfat in the milk or cream. Any other data or statistics desired by the creamery license division pertaining to the purchase of milk or cream shall be reported to the creamery license division by the person according to and on forms furnished by the creamery license division. The above persons shall keep complete and accurate records of their business.

(Formerly: Acts 1955, c.255, s.15.) As amended by P.L.183-1983, SEC.125; P.L.93-1994, SEC.15.

IC 15-6-1-17

Powers of inspectors; powers of creamery examining board

Sec. 17. (a) For the purpose of administering this chapter, inspectors of the creamery license division may:

- (1) enter at all reasonable hours all places where milk or cream is being stored, bottled, or processed, or where milk or cream is being bought, sold, or handled, to inspect records pertaining to the purchase and payment of milk or cream;
- (2) inspect and copy the records pertaining to the purchase and payment of milk or cream; and
- (3) take testimony to ascertain facts pertaining to the purchase and payment of milk or cream which in the judgment of the creamery license division are necessary to administer this chapter.

(b) The creamery examining board shall have the power to determine the truth and accuracy of the books, records, papers, documents, accounts, and reports required to be furnished in accordance with this chapter.

(Formerly: Acts 1955, c.255, s.16.) As amended by P.L.183-1983, SEC.126; P.L.93-1994, SEC.16.

IC 15-6-1-18

Interference with or obstruction of inspector

Sec. 18. (a) It is unlawful for any person, or an officer, a servant, an agent, or an employee of any person to in any manner interfere with any authorized inspector of the creamery license division in the making of any inspections or in the taking of any of the samples required to be made or taken under this chapter.

(b) A person owning, operating, or in charge of any dairy processing plant, receiving station, milk factory, cheese factory, condensery, ice cream factory, or other processing plant that is subject to inspection or entry by an inspector of the creamery license division may not refuse to allow or may not obstruct an inspector's entry or inspection.

(Formerly: Acts 1955, c.255, s.17.) As amended by P.L.183-1983, SEC.127; P.L.93-1994, SEC.17.

IC 15-6-1-19**Violations**

Sec. 19. A person who recklessly violates this chapter commits a Class A misdemeanor.

(Formerly: Acts 1955, c.255, s.18.) As amended by Acts 1978, P.L.2, SEC.1547; P.L.93-1994, SEC.18.

IC 15-6-1-20 Repealed

(Repealed by Acts 1978, P.L.2, SEC.1549.)

IC 15-6-1-21**Creamery examining board; membership; duties**

Sec. 21. (a) The creamery examining board consists of eight (8) members composed of the following:

- (1) Three (3) producers of milk and cream.
- (2) Three (3) processors of milk and cream.
- (3) One (1) member of the animal sciences department who shall be appointed by the dean of agriculture of Purdue University.
- (4) One (1) milk hauler.

The creamery examining board shall elect a chairman annually.

(b) Two (2) of the producer members shall be elected to the board by the Indiana Cooperative Milk Producer's Federation, Inc. The third producer member shall be elected to the board by the Indiana state dairy association.

(c) The three (3) processor members shall be elected to the board by the midwest dairy products association.

(d) Terms of board members are three (3) years.

(e) The midwest dairy products association shall elect one (1) member each year. The Indiana federation of cooperatives shall elect a producer member to the board two (2) out of every three (3) years and the Indiana state dairy association shall select a producer member during the third year.

(f) The milk hauler member shall be appointed to the board by the dean of agriculture of Purdue University or the dean's designee.

(g) A vacancy in any membership of the board shall be filled by the same process for the unexpired term.

(h) The board shall do the following:

(1) Hold regular quarterly meetings and in addition meet in special called sessions at a time and place designated by the chairman.

(2) Review all cases of violation of this chapter.

(3) Recommend the revocation of any license issued under this chapter.

(4) Adopt specific rules under IC 4-22-2 relative to weighing, sampling, and testing of milk and cream and to the enforcement of the creamery license law.

(i) On recommendation of the board and with the approval of the dean of agriculture of Purdue University, inspectors of the creamery license division may inspect records or collect data on the quality of milk and cream in plants which are cooperating with Purdue University in the quality improvement program or assist in any other project which will be of mutual benefit to the dairy industry of the state and the Purdue University animal sciences department.

(j) Board members shall be reimbursed by the creamery license division for actual traveling expenses and subsistence while attending a regular or called meeting.

(Formerly: Acts 1955, c.255, s.20; Acts 1969, c.181, s.12.) As amended by P.L.183-1983, SEC.128; P.L.40-1993, SEC.51; P.L.93-1994, SEC.19.

IC 15-6-1-22

Late fees

Sec. 22. If a person is more than thirty (30) days late paying a fee required under this chapter, the creamery examining board shall assess a late fee of the greater of the following:

(1) Ten percent (10%) of the amount due.

(2) Five dollars (\$5).

As added by P.L.93-1994, SEC.20.